



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

CHANGE IN LOCATION OF HEARING

TOWN OF FENWICK ISLAND

BOARD OF ADJUSTMENTS HEARING

**Roxana Volunteer Fire Company
35943 Zion Church Road
Frankford, DE 19945**

THURSDAY, AUGUST 23, 2018

1:00 P.M.

Call to Order

- **Review Session with Board Solicitor**

2:00 P.M.

Public Hearing

- **Request for Variance**
 - **Robert & Brenda Shelton
5 E. Houston Street
Fenwick Island, Delaware**
- **Request for Variance and Appeal to Decision of Building Official**
 - **Buas Sands Hotel LLC, a Delaware Limited Liability Company
(Mr. Spiro Buas)
1501 Coastal Highway
Fenwick Island, Delaware**

POSTED: August 6, 2018
AMENDED: August 8, 2018



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CHANGE IN LOCATION OF HEARING

LEGAL NOTICE

THERE WILL BE A PUBLIC HEARING BEFORE THE TOWN OF FENWICK ISLAND BOARD OF ADJUSTMENTS IN ACCORDANCE WITH CHAPTER 160 (ZONING) OF THE CODE OF THE TOWN OF FENWICK ISLAND, DELAWARE, ON A REQUEST FOR A VARIANCE TO THE SIDE SETBACK AT 5 E. HOUSTON STREET (ALSO KNOWN AS (1-34 23.12 194.00, LOT 9), LOCATED WITHIN THE INCORPORATED LIMITS OF THE TOWN FOR A 3.4 FEET ENCROACHMENT FOR THE INSTALLATION OF AN ELEVATOR.

THE HEARING WILL BE HELD ON THURSDAY, AUGUST 23, 2018 AT 2:00 P.M. AT ROXANA VOLUNTEER FIRE COMPANY, 35943 ZION CHURCH ROAD, FRANKFORD, DELAWARE.

INTERESTED PERSONS MAY INSPECT PLOT PLANS AT TOWN HALL DURING TOWN BUSINESS HOURS, MONDAY THROUGH FRIDAY, 8:00 A.M. TO 4:00 P.M.

BOARD OF ADJUSTMENTS
TOWN OF FENWICK ISLAND

POSTED: JULY 25, 2018
AMENDED: AUGUST 7, 2018

Coastal Point

P.O. Box 1324 • 111 Atlantic Ave. • Ocean View, DE 19970
(302)539.1788 • Fax: (302)539.3777

LEGAL AFFIDAVIT

FOR:

Town of Fenwick Island
800 Coastal Highway
Fenwick Island, DE 19944

DATES RUN: August 10, 2018

COST PER WEEK: \$31.50

CERTIFICATE OF PUBLICATION

August 24 Meeting Notice - Second Notice

This is to certify that the attached has been published in Coastal Point, a weekly paper of general circulation in southeastern Sussex County, published in Ocean View, Delaware on the following dates:

August 10, 2018

Signature:

Jane F. Johnson

CHANGE IN LOCATION OF HEARING
FENWICK ISLAND LEGAL NOTICE

THERE WILL BE A PUBLIC HEARING BEFORE THE TOWN OF FENWICK ISLAND BOARD OF ADJUSTMENTS IN ACCORDANCE WITH CHAPTER 160 (ZONING) OF THE CODE OF THE TOWN OF FENWICK ISLAND, DELAWARE,

- ON A REQUEST FOR A VARIANCE TO THE SIDE SETBACK AT 5 E. HOUSTON STREET (ALSO KNOWN AS (1-34 23.12 194.00, LOT 9), LOCATED WITHIN THE INCORPORATED LIMITS OF THE TOWN FOR A 3.4 FEET ENCROACHMENT FOR THE INSTALLATION OF AN ELEVATOR.

- ON A REQUEST FOR AN APPEAL OF THE BUILDING OFFICIAL'S DECISION OF THE CALCULATION OF BUILDING HEIGHT OR A VARIANCE TO THE MAXIMUM ROOF HEIGHT AT 1501 COASTAL HIGHWAY (ALSO KNOWN AS 1-34 23.12 179.00), LOCATED WITHIN THE INCORPORATED LIMITS OF THE TOWN FOR A SIX FEET ENCROACHMENT FOR THE INSTALLATION OF AN ELEVATOR.

THE HEARING WILL BE HELD ON THURSDAY, AUGUST 23, 2018 AT 2:00 P.M. AT ROXANA VOLUNTEER FIRE COMPANY, 35943 ZION CHURCH ROAD, FRANKFORD, DELAWARE.

INTERESTED PERSONS MAY INSPECT PLOT PLANS AT TOWN HALL DURING TOWN BUSINESS HOURS, MONDAY THROUGH FRIDAY, 8:00 A.M. TO 4:00 P.M.

CP 20180810 2T

Coastal Point



P.O. Box 1324 • 111 Atlantic Ave. • Ocean View, DE 19970

(302)539.1788 • Fax: (302)539.3777

LEGAL AFFIDAVIT

FOR:

Town of Fenwick Island
800 Coastal Highway
Fenwick Island, DE 19944

DATES RUN: July 27, 2018

COST PER WEEK: \$42.00

CERTIFICATE OF PUBLICATION

August 23 Board of Adjustment Notice - Shelton

This is to certify that the attached has been published in Coastal Point, a weekly paper of general circulation in southeastern Sussex County, published in Ocean View, Delaware on the following dates:

July 27, 2018

Signature:

Jane F. Johnson



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

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www.fenwickisland.delaware.gov

LEGAL NOTICE

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THE HEARING WILL BE HELD ON THURSDAY, AUGUST 23, 2018 AT 2:00 P.M. IN FENWICK ISLAND TOWN HALL.

INTERESTED PERSONS MAY INSPECT PLOT PLANS AT TOWN HALL DURING TOWN BUSINESS HOURS, MONDAY THROUGH FRIDAY, 8:00 A.M. TO 4:00 P.M.

BOARD OF ADJUSTMENTS
TOWN OF FENWICK ISLAND

JULY 25, 2018



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

July 12, 2018

Board of Adjustments
Town of Fenwick Island
800 Coastal Highway
Fenwick Island, DE

Dear Members of the Board of Adjustments:

On June 18, 2018 I received a request from Mr. Greg Hastings of Hastings Associates LLC on behalf of Mr. & Mrs. Robert Shelton, owners of 5 E. Houston Street in Fenwick Island, for a building permit for the installation of an elevator to be installed on the east side of the existing house.

Mr. Hastings was informed that the elevator shaft, which is 5.5' x 6.5', will encroach into the easterly setback by 3.4'.

The house was originally constructed by Resort Pointe Custom Homes LLC in 2002 as a spec house and purchased by Mr. & Mrs. Shelton in 2003.

This request was denied in accordance with the requirements of Chapter 160-4C(3), wherein there shall be a side yard of not less than seven feet. The owner has subsequently requested this hearing before the Board of Adjustments.

Very truly yours,

Patricia J. Schuchman

Building Official/Code Enforcement

Shelton, Robert & Brenda
P.O. Box 100
Cochranville, PA 19330

Hobbs, Charles A.
c/o Ann Hobbs
37335 Dirickson Creek Road
Frankford, DE 19945

Gjoni, Ervin and Agliaia
Seaside Motel – MBELTA LLC
10459 Golf Course Road
Ocean City, MD 21842

Westwater, Joseph & Nellie
1153 Colonial Road
McLean, VA 22101

Benn, Richard & Lisa
10116 Nedra Drive
Great Falls, MD 22066

Monahan, Thomas & Sandra
12055 Windsor Moss
Ellicott City, MD 21042

Powderly, Kevin & Emily
3 Quail Covey Court
Reisterstown, MD 2131

Tilghman, Blaine M.
134 Kirkcaldy Drive
Elkton, MD 21921

Goll, Nancy
8 E. Indian Street
Fenwick Island, DE 19944

Six Winds LLC
97 South Street
Duxbury, MA 0232

Ponsi, Michael & Melanie
9 Stony Meadow Court
Lutherville, MD 21093

M & M Properties LLC
Tony Morgan
29034 Cat Mans Road
Frankford, DE 19945

Mr. Greg Hastings
102 Central Avenue
Ocean View, DE 19970

Adkins, Andrew
37792 Cedar Road
Selbyville, DE 19975

Gaul, James R. & Lynn K.,
Kelleher, Denise
106 Milford Street
Salisbury, MD 21801

Aaron, Jonathan & Cheryl
121 St. Thomas Lane
Owings Mills, MD 21117

Farmer, Charles & Serene
15 E. Melrose Street
Chevy Chase, MD 20815

Sara Gable Parris-Booth
32623 East Riga Drive
Ocean View DE 19970



Town Of Fenwick Island Delaware
Building Official Office
800 Coastal Highway, Fenwick Island, DE 19944
Phone: (302) 539-3011 Fax: (302) 539-1305

Application for Building Permit

Location Address 5 E. HOUSTON ST. **Permit Number** _____
Tax Map Number 1-34 23.12 194.00 **Lot Number** 9
Owner's Name ROBERT SHELTON
Residence 5 E. HOUSTON ST.
FENWICK ISLAND DE

Phone _____

Builder's Name _____ **Business License #** _____

Builder's Address _____

Builder's Phone _____

Detailed Plans Provided ☐ Yes ☐ No ☐ Pending **Site Plan Provided** ☐ Yes ☐ No ☐ Pending

Sussex County Permit _____ **DNREC Permit** _____

ECC _____ **Permit Fee** _____ **Expiration Date** _____

I/We hereby apply for a Permit for:

INSTALL NEW ELEVATOR

CONSTRUCTION HOURS: Construction is permitted Monday through Saturday 8:00 am to 6:00 pm. No construction on Sunday or Holidays (homeowners are excluded pursuant to Town Code Chapter 61-14). No pile driving June 1 through August 31.

APPLICANT'S STATEMENT:

I, the applicant, agree that I have read and understand this document and that all the information provided is true and factual to the best of my knowledge. I and/or the builder will adhere to the approved plans and comply with the Code of The Town of Fenwick Island. Upon completion of the work described, I will provide all documentation requested by the Building Official so that a final inspection by The Town can be completed. A Certificate of Compliance will be issued by The Town of Fenwick Island if the work is in compliance with Town Code. Failure to obtain this certificate from The Town is a violation of Chapter 160 the Town Code and subject to penalties. I agree to repair or pay the reasonable cost of repair to any public or private property damaged in the course of the work hereby authorized.

Applicant Signature _____ **Date** _____

Zoned _____ **In Flood Zone** _____ **Elevation Certificate Needed** ☐
As Built-Final Location Survey Needed ☐ **Board of Adjustments** ☐ **CO** ☐

Approved by (Town Official) _____ **Approved Date** _____

TOWN OF FENWICK ISLAND, DELAWARE
BUILDING PERMIT APPROVAL / DISAPPROVAL FORM

Name of Owner: ROBERT SHELTON Date: 6-18-2018
Property Location: 5 E. HOUSTON ST. Application #: _____
Builders Name: _____ Bldg Permit # Assigned: _____

SECTION I

Date: 6-18-2018

☒ Building Permit Disapproved

Reason for Disapproval:

ELEVATOR SHAFT IS 5 1/2' X 6 1/2' AND WILL ENCR OACH INTO EAST SIDE SETBACK BY 3.4'. APPLICATION DENIED.

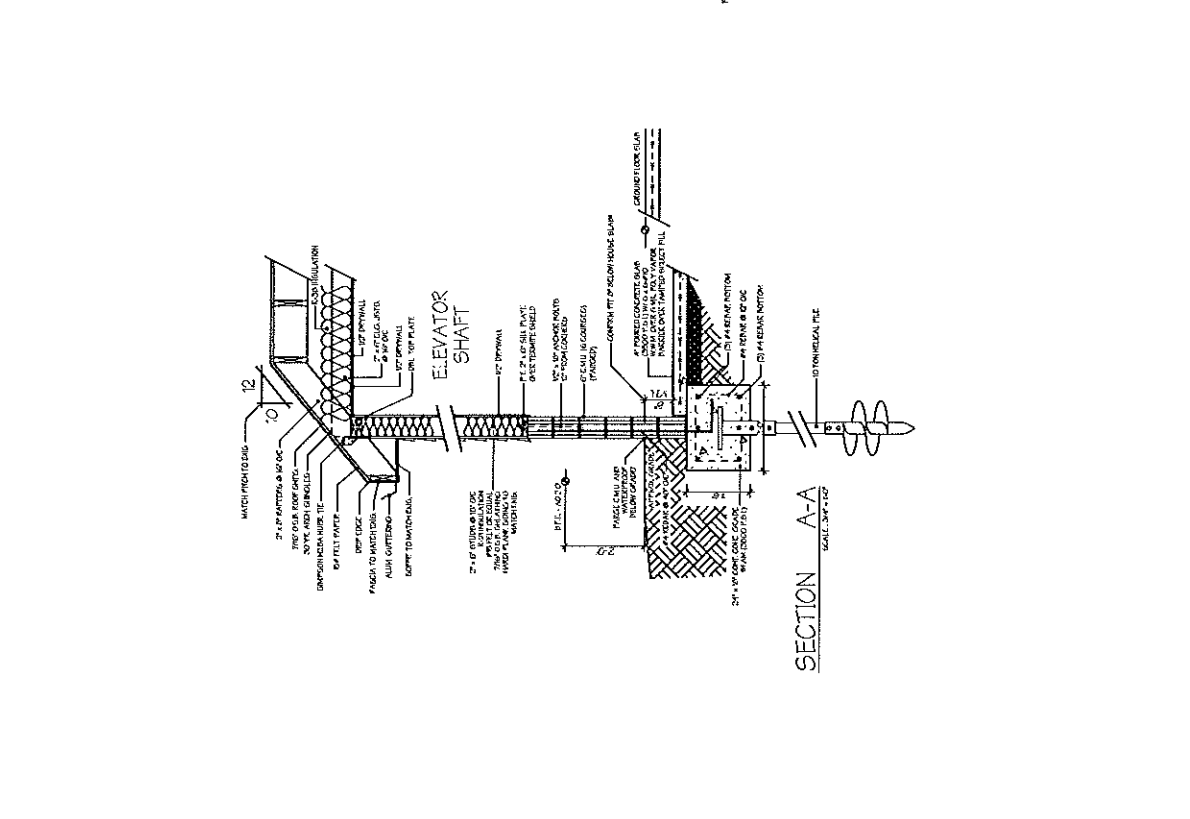
P. Schuchman - 6-18-18

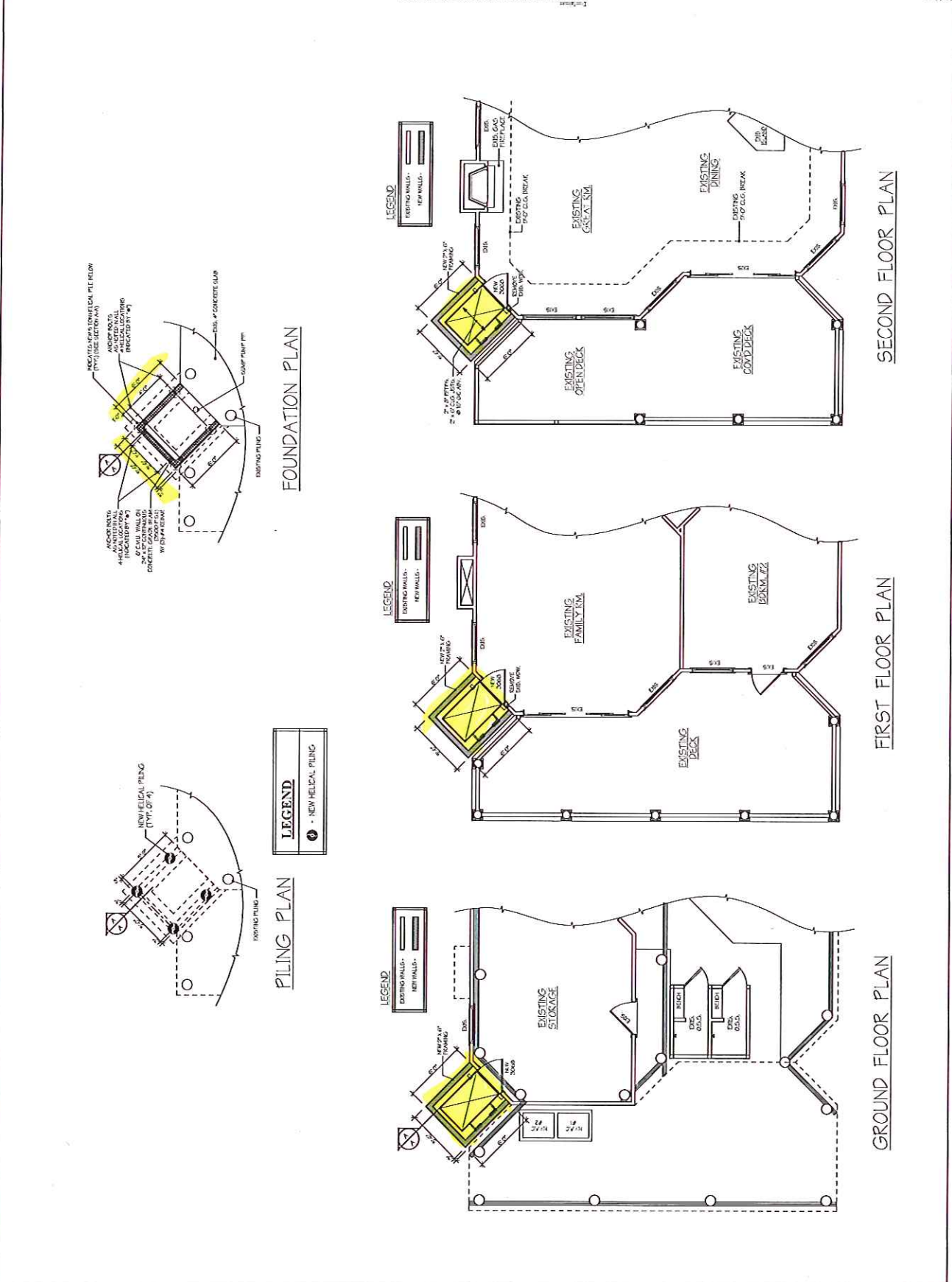
SECTION II - Over \$20,000.

Date: _____

☒ Building Permit Approved
☒ Building Inspector: _____
☐ Building Committee: _____

Building Permit # Assigned: _____

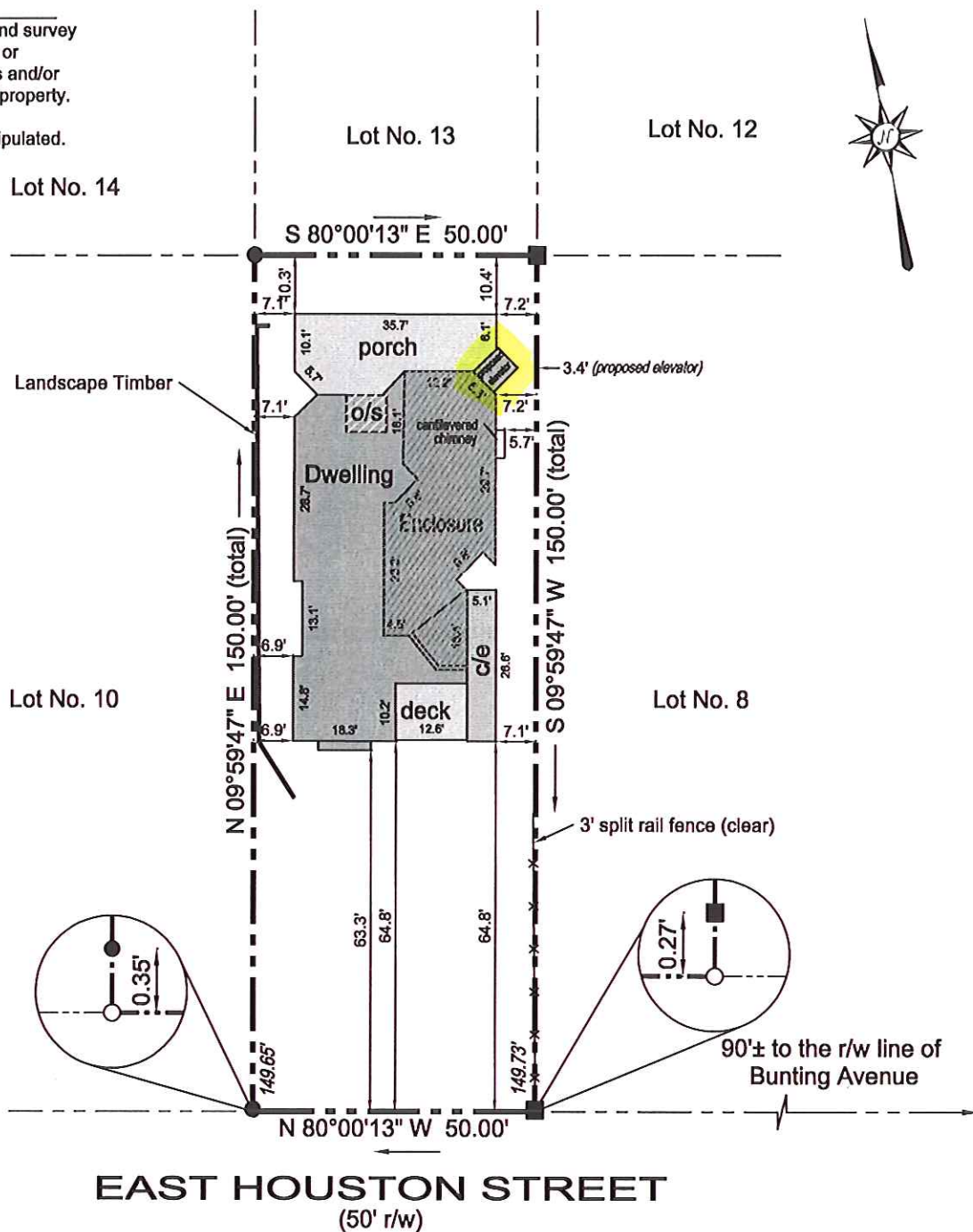


[illegible]

NOTES:

• Other than shown, this plat and survey does not verify the existence or nonexistence of right-of-ways and/or easements pertaining to this property.

• No title search provided or stipulated.



- 3/4" PIPE (FD)
- CONC. MON. (FD)

SCALE: 1"=30'

AREA: 7,500 SQ. FT.

TAX MAP NO. 1-34-23.12-194

Lands of BRENDA E. SHELTON. Being known as
LOT NO. 9, SECTION "H", FENWICK ISLAND
LOTS. Situated in the TOWN of FENWICK ISLAND.

Revised: 04/19/2018, Proposed Elevator Site Plan

FIRM INFORMATION:
105084 - 0658 - K
MARCH 16, 2015
ZONE: "AO", Depth: 2.0'
CLASS "A" SURVEY

HUNDRED: BALTIMORE

COUNTY: SUSSEX

STATE OF DELAWARE

DATE OF ORIGINAL: 04-02-2018

DRAWN BY: MICHAEL LOVELAND

**SIMPLER
SURVEYING
& ASSOCIATE, INC.**
32486 POWELL FARM ROAD, FRANKFORD, DE 19945
www.delawaresurveyor.com
PHONE: (302) 539-7873 FAX: (302) 539-4336

SEAL

[Handwritten Signature]
04/20/15

I, Gregory M. Hook, registered as a Professional Land Surveyor in the State of Delaware, hereby state that the information shown on this plan has been prepared under my supervision and meets the standards of practice as established by the State of Delaware Board of Professional Land Surveyors. Any changes to the property conditions, improvements, boundary or property corners after the date shown hereon shall necessitate a new review and certification for any official or legal use.

P.L.S. 711

Town of Fenwick Island
C/O Pat Schuchman, Building Official
Fenwick, DE

Pat,
I am writing this letter on behalf of my client Mrs. Brenda Shelton whom I will be representing for the purpose of seeking a variance.

Mrs. Shelton has been stricken with Rheumatoid Arthritis and due to her condition it has become extremely difficult for her to manage the stairs in her home on East Houston Street.

She is designing and planning the constructing an elevator to go to all floors, in order to make access to her home more convenient.

In doing this planning the design encroaches 3.4' into the eastern setback. With the design placed on a 45 degree angle 50% of the elevator does sit within the setback and the configuration of the existing home, however the remaining portion of the design will have to encroach.
(See attached proposed)

We respectfully request the approval of this variance application for this unfortunate, but simple reason. Fortunately the neighbor on the east side has been approached by Mrs. Shelton to share this information and the neighbor does not have any issue with this encroachment to the Shelton's set back.

Respectfully,
Greg A. Hastings

BRENDA E SHELTON
400 FAGGS MANOR RD.
COCHRANVILLE, PA 19330-1112

60-142
313 144

2017

DATE *June 23, 2018*

SECURE before cashing

PAY TO
THE ORDER OF

Town of Fenwick

\$ 750.⁰⁰

Seven Hundred Fifty

DOLLARS

Security Features
Include
DEALERS MARK

Fulton Bank

LISTENING IS JUST THE BEGINNING.®

MEMO

Brenda Shelton

MP

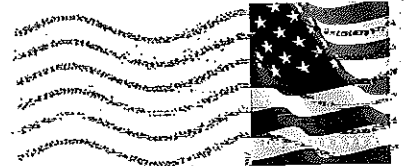
⑆031301422⑆ 0007112036⑈ 2017

SPECIALTY LEAFLET

Brenda Shelton
PO Box 100
Cochranville, PA 19330

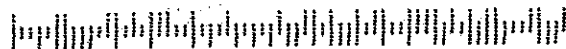
HARRISBURG PA 171

25 JUN 2018 PM 2 L



*J.A. Hastings & Associates
102 Central Ave.
Ocean View, Del. 19970*

19970-301901



the front building line, except as provided in § 160-8A(3). No lot area shall be so reduced or diminished by this chapter.

- (2) Front building limit line. The building limit line shall be set back from the front property line a minimum of 25 feet.

- (3) Side yard. There shall be a side yard of not less than seven feet in width on each side of a main building, and eaves shall be set back not less than six feet from the side property line, excepting that in the case of a corner lot the side yard adjacent to and abutting the side street shall be not less than 15 feet in width, eaves setback not less than 14 feet from the side property line and further excepting as provided in § 160-6A(3) and (7) of this chapter.

- (4) Rear yard building limit line.

- (a) Rear yard building limit line shall be 20 feet from rear property line.
- (b) In the case where the rear property line extends beyond an established bulkhead, the building limit line shall be 20 feet as measured from the bulkhead.
- (c) In the case where the bulkhead extends beyond the property line, the building limit line shall be measured 20 feet from the property line.
- (d) In the case where the rear property is ripped, the rear building limit line shall be measured from the established surrounding bulkhead line or the average high water line as determined by the Building Official.

- (5) Any mechanical equipment shall be prohibited in the side yard setbacks. Such equipment shall be allowed to encroach into the rear yard and front yard setbacks to a line not less than 10 feet from the rear property line and to a line not less than 16 feet from the front property line. Mechanical equipment located in any rear or front yard setback shall be screened from view with screening that has openings constituting between 20% and 30% of the total surface area of the screening to provide for the flow-through of air. A detailed design drawing of the mechanical equipment, together with any required screening, shall be submitted with the application for a building permit. [Added 6-23-2017]

- (6) No dwelling shall be built on a lot or plot which does not front directly on a public street, road or highway.

- (7) Floor area ratio and floor area. For a detached single-family dwelling, the maximum floor area ratio shall be 70% and the maximum floor area shall be 7,500 square feet.

- D. Minimum size of dwelling erected on a lot; valuation thereof. No building erected, maintained or occupied in this zone exclusive of accessory buildings shall occupy less than 750 square feet of a lot nor have a fair valuation of less than \$50,000.

2. Editor's Note: This ordinance also provided for the renumbering of former Subsection C(5) and (6) as Subsection C(6) and (7), respectively.

Pat Schuchman

From: Teresa Tieman
Sent: Friday, August 10, 2018 8:48 AM
To: Pat Schuchman
Subject: FW: Board Of Adjustments Hearing

From: Kevin Carouge <mkcarouge@gmail.com>
Sent: Friday, August 10, 2018 8:46 AM
To: Teresa Tieman <townmgr@fenwickisland.org>
Cc: Kevin Carouge <mkcarouge@gmail.com>
Subject: Board Of Adjustments Hearing

Terry,

I am unable to attend the upcoming hearing due to an out of state commitment, and would like to respectfully request that my views on the two variances being discussed be put on the record.

- 1.) Height Variance Sands Motel – With much discussion this hotel owner was given a significant variance regarding density allowing 65 rooms on the property vs. the 39 currently allowed. I am opposed to allowing yet another exception to the towns regulations for this property owner. Adding 6 feet to the already recently increased building height could result in a structure of 38ft in height. There are most certainly other options for this, such as an hydraulic elevator which does not require overhead mechanicals. If we continue to allow exceptions to our ordinances, the Town of Fenwick Island will become indistinguishable from our neighbor in the unincorporated part. The rational for the regulations we have is to protect the uniqueness of the town, we are slowly morphing into the areas that surround us.
- 2.) Set Back Variance Elevator Homeowner – The town recently reviewed the issue of setbacks as it regarded mechanical units for commercial buildings and granted a further encroachment of the setbacks, something that was intended to protect the access to buildings in the event of emergency, and provide an appropriate buffer for all property owners. I am against allowing this variance, even if the argument to support is based on the owners disability. Again, there are other options such as a stair lift which could be employed. The argument here is similar as above, if we keep modifying the laws and ordinances we put in place (all for sound and positive reasons) then we lose the integrity of the town and become a hodgepodge of whomever can make an individual argument to disregard them.

There will always be individual self-serving petitions to the town to change our regulations. If the regulations are not appropriate or applicable then they should be changed and voted on by the entire town.

Thank you for your time.

Kevin Carouge
1006 Bunting Ave.

Pat Schuchman

From: Liz Lear <learhanlon@aol.com>
Sent: Thursday, August 16, 2018 2:41 PM
To: Pat Schuchman
Subject: Aug. 23rd Board of Adjustments Hearing

TO: Pat Schuchman - Building Official

Although I would like to see a new clean motel, I am against granting the 6' variance for the installation of an elevator. The motel owner was aware of the height restrictions when he purchased the property. I do not want the vista across the street from me to be an elevator tower.

Liz Lear
1602 Coastal Highway
Fenwick Island, DE